ORDINANCE NO. 00 - 017

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, GRANTING AN EXEMPTION FROM CERTAIN AD VALOREM TAXATION TO ENCOURAGE ECONOMIC DEVELOPMENT IN THE COUNTY FOR LAKE WORTH GENERATION, LLC, A NEW BUSINESS; PROVIDING FOR A FINDING THAT REQUIREMENTS HAVE BEEN MET; PROVIDING FOR THE AMOUNT OF REVENUE AVAILABLE FROM AD VALOREM TAX SOURCES FOR THE CURRENT FISCAL YEAR; PROVIDING FOR THE AMOUNT OF REVENUE LOST BY VIRTUE OF THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTIONS CURRENTLY IN EFFECT; PROVIDING FOR THE ESTIMATED REVENUE LOST ATTRIBUTABLE TO THE EXEMPTION GRANTED TO LAKE WORTH GENERATION, LLC; PROVIDING FOR THE PERIOD OF TIME FOR WHICH THE EXEMPTION WILL REMAIN IN EFFECT AND THE EXPIRATION DATE OF THE EXEMPTION; PROVIDING FOR ANNUAL REPORTING REQUIREMENT; PROVIDING FOR APPLICABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VII, Section 3, of the Constitution of the State of Florida, and Section 196.1995, Florida Statutes, authorizes the granting of economic development ad valorem tax exemptions to new businesses and expansions of existing businesses upon the successful passage of a referendum; and

WHEREAS, a successful referendum was held on September 8, 1994, resulting in the enactment of Ordinance No. 94-21 known as the "Economic Development Ad Valorem Tax Exemption Ordinance of Palm Beach County, Florida"; and

WHEREAS, such ordinance establishes the requirements for exemption consideration, including the submission of an application; and

WHEREAS, Lake Worth Generation, LLC has submitted an application for an exemption; and

WHEREAS, all affected and interested agencies representative of the business and general community have reviewed said application, and provided comments on the granting of same; and

WHEREAS, all statutory and ordinance requirements have been satisfied.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

SECTION 1. TITLE.

This Ordinance shall be known as the "Economic Development Ad Valorem Tax Exemption Ordinance - Lake Worth Generation, LLC".

SECTION 2. FINDING THAT REQUIREMENTS HAVE BEEN MET.

The Board of County Commissioners of Palm Beach County, Florida, based on the application submitted by Lake Worth Generation, LLC, and the report of the Property Appraiser, finds that Lake Worth Generation, LLC has met all the requirements of Ordinance No. 94-21, as amended by Ordinance No. 95-4, and meets the requirements of Section 196.012 (16), Florida

Statutes and that granting the exemption granted hereby will result in an economic benefit to Palm Beach County.

SECTION 3. AD VALOREM TAX REVENUES

The revenues available to Palm Beach County for the current fiscal year from ad valorem tax sources are $310,315,059 (operating). The revenues lost to Palm Beach County for the current fiscal year by virtue of the ad valorem tax exemptions currently in effect are $78,620. The estimated revenues to be lost for 1999 by granting this exemption are estimated to be $891 and up to $299,271 for planned future acquisitions per year.

SECTION 4. TERM OF EXEMPTION; EXPIRATION DATE.

The Economic Development Ad Valorem Tax Exemption granted to Lake Worth Generation, LLC for a new business shall be for period of ten (10) tax years commencing on January 1, 2000 and expiring on December 31, 2009. The ability to receive an exemption for the period granted is conditioned upon Lake Worth Generation, LLC's ability to maintain the new business as defined in Ordinance No. 94-21, as amended, throughout the ten (10) year exemption period. Lake Worth Generation, LLC shall submit an annual report to the Board of County Commissioners evidencing satisfaction of this condition in such form as attached hereto and made a part hereof as Exhibit "A." Lake Worth Generation, LLC shall furnish any and all information as the Board of County Commissioners or its designee deems necessary for the purpose of determining continued performance of the imposed conditions. Should Lake Worth Generation, LLC fail to satisfy the conditions set forth herein, the Board of County Commissioners may revoke the exemption and recover any taxes waived pursuant to Section 9 of Ordinance No. 94-21, as amended.

SECTION 5. GRANT OF EXEMPTION.

After consideration of the application submitted by Lake Worth Generation, LLC, a copy of which is attached hereto and made a part hereof as Exhibit "B", which includes the report of the Property Appraiser, in accordance with the procedure set forth in Ordinance No. 94-21, as amended by Ordinance No. 95-4, the Board of County Commissioners hereby grants and establishes an exemption from ad valorem taxation of one hundred per cent (100%) of the assessed value of the net increase in qualifying tangible personal property acquired by Lake Worth Generation, LLC after the adoption of this ordinance, provided such net increase in qualifying tangible personal property facilitates Lake Worth Generation, LLC's new business to be located on the property of the Tom G. Smith Power Plant at 117 College Street, Lake Worth, Florida 33461. Lake Worth Generation, LLC agrees to abide by the terms and conditions set forth in Ordinance No. 94-21 and any and all

amendments thereto, as well as any policies and procedures related to the Economic Development Ad Valorem Tax Exemption Program as may be adopted from time to time. Failure to abide by same may result in a revocation of the exemption and the recovery of any taxes waived pursuant to Section 9 of Ordinance No. 94-21, as amended. No exemption shall be granted on the land on which improvements for the new business are made by Lake Worth Generation, LLC.

SECTION 6. APPLICABILITY.

The exemption applies only to taxes levied by Palm Beach County. The exemption does not apply to taxes levied by a municipality, school district, or water management district, or to taxes levied for the payment of bonds or taxes authorized by a vote of the electors pursuant to Section 9 and Section 12, Article VII of the State Constitution.

SECTION 7. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.

The provisions of this ordinance shall become and be made a part of the Code of Laws and Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or any other appropriate word.

SECTION 8. SEVERABILITY.

If any section, paragraph, sentence, clause, phrase, or word of this ordinance is for any reason held by a Court to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this Ordinance.

SECTION 9. REPEAL OF LAWS IN CONFLICT.

All local ordinances in conflict with any provision of this ordinance are hereby repealed to the extent of such conflict.

SECTION 10. EFFECTIVE DATE.

The provisions of this ordinance shall become effective upon filing with the Department of State of the State of Florida.

APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on the 16 day of May, 2000.

DOROTHY H. WILKEN, CLERK

Board of County Commissioners

By: _____
Deputy Clerk

PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS

By: _____
Chair

BOARD OF COUNTY COMMISSIONERS PALM BEACH COUNTY FLORIDA

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: _____
Asst. County Attorney

EFFECTIVE DATE: Filed with the Department of State on the 22nd day of May, 2000.

F:\USER\BFLANAGA\WPDATA\TAX\LWGener_TAX_O65.wpd May 2, 2000

BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY
ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION PROGRAM
ANNUAL REPORT

As required by Section 5.H of Ordinance No. 94-21, this form is to be filed with the Board of County Commissioners no later than March 1 of each year the exemption is desired.

1. Business name and mailing address: Lake Worth Generation, L.L.C.
   245 Winter Street, Suite 300, Waltham, MA 02451

2. Please give name and telephone number of owner or person in charge of this business:
   Name: Brian Chatlosh Telephone No. 781-370-1500

3. Exact location (legal description and street address) of property for which this report is filed: The new electrical generating facility located within the boundaries of the Tom G. Smith Power Plant (owned and operated by the City of Lake Worth) at 117 College Street, Lake Worth, FL 33461. **Please see Attachment 1 for the legal description**

4. Date you began business at this facility: January 19, 1999 (estimated) date of commercial operation is August 2002

5. a. Description of the improvements to real property for which this exemption is requested:
   Please see Attachment 2 for the improvements to real property.
   b. Date of commencement of construction of improvements:
   Construction is planned to commence on July 15, 2000.

6. a. Description of the tangible personal property for which this exemption is requested and date when property was purchased: Provide this information on the attached form PB-418(6a)/AR, "Tangible Personal Property" Audit Report.
   b. Average value of inventory on hand: Estimated to be $1,500,000

7. Have you maintained the definition of a "New Business" or as an "Expansion of an Existing Business"
   Yes X No ____

8. Describe the type or nature of your business: Wholesale electric generating facility.

9. Trade level (check as many as apply): Wholesale X Manufacturing X Professional ____
   Office ____ Other ____

10. a. Number of full-time employees employed in Florida: 13 hired prior to commercial operation (attach current payroll roster as of
    January 1st of the year the year the exemption is being sought; provide hire dates; omit names of employees)
    b. If an expansion of an existing business:
    (1) Net increase in employment: **Please see Attachment 3 for the Jobs Creation explanation**

    (2) Increase in productive output resulting from this expansion **Please see Attachment 4**

11. Sales factor for the facility requesting exemption: (the following are estimated values)
    Total sales in Florida from this facility – one (1) location only _____divided by
    Total sales everywhere from this facility – one (1) location only _____ = **Not Applicable**

12. For office space owned and used by a corporation newly domiciled in FL:
    a. Date of Incorporation in Florida: Lake Worth Generation, L.L.C., the business entity was organized in Delaware and has applied for and received authorization to transact business in Florida
    b. Number of full-time employees at this location: **Please see Attachment 3**

I agree to furnish such other reasonable information as the Board of County Commissioners may request in regard to the exemption. I hereby certify that the information and valuation stated above by me is true, correct, and complete to the best of my knowledge and belief. (If prepared by someone other than the taxpayer, his declaration is based on all information of which he has any knowledge.)

DATE: 2/28/00 SIGNED: _____ (Preparer)

SIGNED: Brian Chatlosh III (Taxpayer) _____ (Preparer's Address)

TITLE: Manager _____ (Preparer's Telephone Number)

PROPERTY APPRAISER'S USE ONLY

I. Estimate of the revenue which will be lost to the county during the current fiscal year had the exempt property otherwise been subject to taxation: _____

II. Estimate of the taxable value lost to the county:
Improvements to real property _____ Personal Property _____

DATE: _____ SIGNED: _____ F
Property Appraiser)

EXHIBIT "A"

TANGIBLE PERSONAL PROPERTY
ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION
ANNUAL REPORT (continued)

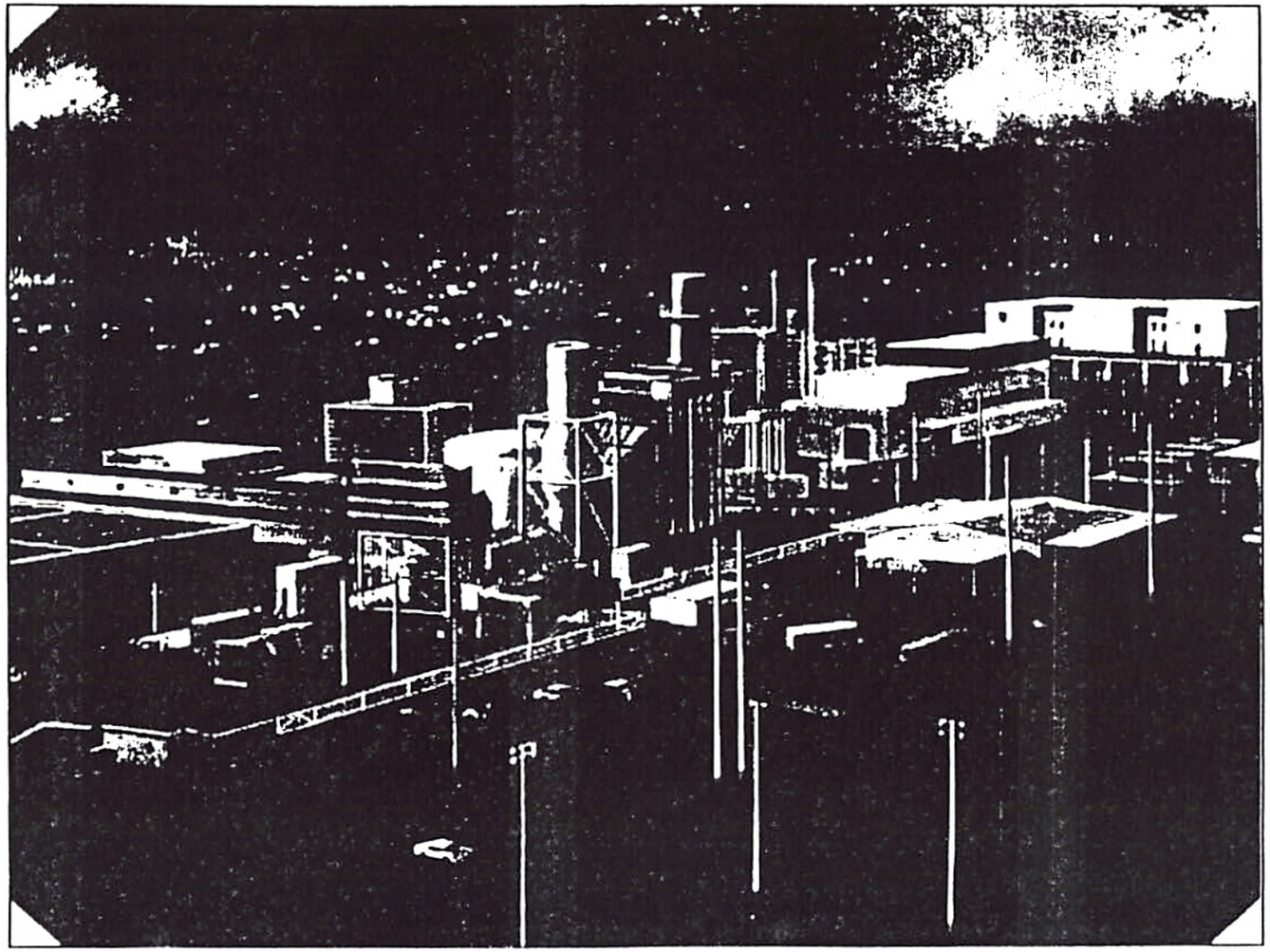
6.a Description of the tangible personal property for which this exemption is requested and date when property was purchased.

CLASS OR ITEM	AGE	DATE OF PURCHASE	ORIGINAL COST	GOOD	AVERAGE	POOR	TAXPAYER'S ESTIMATE OF FAIR MARKET VALUE
General Electric Combustion Turbine*	New	Feb. 2002	$35,509,000	X			$35,509,000
Heat Recovery Steam Generator**	New	**The following items are to be procured**		X			$9,500,000
Steam Turbine Generator Set	New			X			$6,200,000
Condenser	New			X			$550,000
Circulating Water Pump**	New			X			$500,000
Cooling Tower	Rebuilt			X			$400,000
Boiler Feed Pumps**	New			X			$400,000
Water Treatment Systems*	New			X			$300,000
Piping System**	New			X			$1,600,000
Oil Tank**	New			X			$200,000
Electrical Distribution**	New			X			$2,500,000
Electrical Generation**	New			X			$2,500,000
Emission Monitoring System*	New			X			$300,000
Heat Controls**	New			X			$2,000,000
Equip Foundations and Walls**	New			X			$2,100,000
Pipe Racks**	New			X			$500,000

F

***Pollution Control Equipment** ****City Participation**

Lake Worth Generation, L.L.C.
Application for Economic Development
Ad Valorem Tax Exemption



Tangible Personal Property Tax Return

As Required by §§193.052 & 193.062 F.S. Return to County Property Appraiser By April 1 to Avoid Penalties

State of Florida, County of

Business Name (DBA - Doing Business As) and Mailing Address

Lake Worth Generation, LLC

Property Appraiser
Palm Beach County

Federal Employer Iden. No

Social Security Number

SIC

If name and address is incorrect make necessary corrections

This return subject to audit with all records kept by you.

Incomplete entries are subject to penalties.

1 Please give name and telephone number of Owner or Person in charge of this Business.
Name Brian Chatlosh Telephone 561-370-1500
Corporate Name Lake Worth Generation, LLC

2 Actual Physical Location of Property for Which this Return is Filed (Street Address Not P.O. Box)
1217 College St., Lake Worth, FL 33461

3 Is your business or farm located within the incorporated limits of a City? Yes X No___
What City? Lake Worth

4 Do You File a Tangible Personal Property Tax Return Under Any Other Name? Yes___ No X
Please Show name Exactly as it Appeared on Your most recent Personal Property Tax Bill or Other Current Tax Return.

5. Date you began business in this county: Jan 19, 1999 Fiscal year: 1999

5a. Although my fiscal year ended prior to December 31 of the past calendar year, this return reflects property additions and deletions through December 31. Yes XX No___

6. Describe Type or Nature of Your Business: Wholesale Power Generation

7. Trade Level (Check as many as apply) Retail☐ Wholesale☒ Manufacturing☒
Professional☐ Service☐ Agriculture☐ Leasing/Rental☐ Other☐

8. Did you file a Tangible Personal Property Return in this county last Year? Yes___ No X
If so, under what name and where?

9. Former owner of the Business: Not Applicable

9a. If Business sold, to whom?
Date Sold

PERSONAL PROPERTY SUMMARY THIS IS A SUMMARY SCHEDULE ONLY. The Schedules on the REVERSE SIDE must be completed in detail and TOTALS entered below. ATTACH ITEMIZED LIST or DEPRECIATION SCHEDULE showing Original Cost & Date of Acquisition.	TAXPAYER'S ESTIMATE OF FAIR MARKET VALUE	ORIGINAL INSTALLED COST	APPRAISER'S USE ONLY
10 Office Furniture & Office Machines & Library	450	600	
11 EDP Equipment: Computers, Word Processors	1400	1500	
12 Store, Bar & Lounge, and Restaurant Furniture & Equipment, Etc.			
13 Machinery and Manufacturing Equipment			
14 Farm Machinery and Dairy Equipment			
15 Professional: Medical, Dental & Laboratory Equipment			
16 Hotel & Apartment Complex			
16a Rental Units - Stove, Refrig., Furniture, Drapes & Appliances			
17 Mobile Home Attachments (Carport, Utility Bldg., Cabana, Porch, Etc.)			
18 Service Station & Bulk Plant Equipment - Underground Tanks, Lifts, Tools			
19 Signs: Billboard, Pole, Wall, Portable, Directional, Etc.			
20 Leasehold improvements must be grouped by type, year of installation and description			
21 Pollution Control Equipment			
22 Equipment owned by you but rented, leased or held by others			
23 Supplies - Not Held for Resale			
24 Other - Please Specify			
TOTAL PERSONAL PROPERTY	1850	2100	

Under penalties of perjury, I declare that I have read the foregoing tax return and the accompanying schedules and statements and that the facts stated in them are true. If prepared by someone other than the taxpayer, the preparer signing this return certifies that this declaration is based on all information of which he/she has any knowledge.

DATE ___ TITLE ___

SIGNED ___ (TAXPAYER)

SIGNED ___ (PREPARER)

ADDRESS ___

PHONE NO ___ PREPARER'S I.D. # ___

LESS EXEMPTION: ( ) WIDOW ( ) WIDOWER ( ) BLIND ( ) TOTAL DISABILITY ( ) OTHER

TAXABLE VALUE

DEPUTY PENALTY

PLEASE SIGN AND DATE YOUR RETURN, SEND THE ORIGINAL TO THE COUNTY APPRAISER'S OFFICE BY APRIL 1, UNSIGNED RETURNS CANNOT BE ACCEPTED BY THE APPRAISER'S OFFICE.

NOTICE: IF YOU ARE ENTITLED TO A WIDOW'S, WIDOWER'S OR DISABILITY EXEMPTION ON PERSONAL PROPERTY (NOT ALREADY CLAIMED ON REAL ESTATE) CONSULT APPRAISER.

SCHEDULES ON REVERSE SIDE MUST BE COMPLETED IN FULL.

DR-405
R. 12/97

THE EXPANSION OF THE CITY OF LAKE WORTH's TOM G. SMITH GENERATING FACILITY

WITH LAKE WORTH GENERATION, L.L.C.

BENEFITS TO PALM BEACH COUNTY AND THE CITY OF LAKE WORTH FROM LAKE WORTH GENERATION, L.L.C.

1) Reduction of air emissions at the Smith Generating Facility

2) A. Increase in municipal, school, health care district & other property tax base over the existing usage of public property and the planned City's Park of Commerce

   B. Enhanced City-County tax base derived from the 318 acre Park of Commerce - economic revitalization, based upon the City's lower electrical rates.

3) Roll back of the City's millage rate

4) Reduction in the electrical generation charge by the City of Lake Worth, resulting in savings to residents.

5) Creation and preservation of skilled labor employment in the City of Lake Worth

LAKE WORTH GENERATION L.L.C. ENABLES A REDUCTION IN THE CITY'S ELECTICAL CHARGE

⇒ **The City of Lake Worth shall purchase from Lake Worth Generation, L.L.C. steam for its Unit S-3 Steam Turbine at an approximate 40% fuel savings**

⇒ **The City of Lake Worth, with a reduced production cost of electricity, thereby can reduce their electrical charge to their customers. The estimated cost reduction is 4% – 8%**

⇒ **The lower energy costs in the City will help attract new businesses to the City of Lake Worth's planned 318 acre Park of Commerce or existing businesses to expand**

THE EFFECT OF LAKE WORTH GENERATION L.L.C.'s AD VALOREM EXEMPTION

⇒ **Lake Worth Generation, L.L.C. will construct and operate the electrical generating facility for an expected life of 40 years**

⇒ **Palm Beach County is not negatively impacted by the exemption, as the existing facility is owned by a municipality and currently provides no tax receipts to the County.**

⇒ **Lake Worth Generation, L.L.C. will pay taxes to Palm Beach County on the real property leased from the City.**

⇒ **The Lake Worth Generation Project provides additional property tax benefits to the local schools and various other taxing bodies**

LAKE WORTH GENERATION L.L.C. INCREASES THE CITY OF LAKE WORTH'S PROPERTY TAX BASE AND RESULTS IN A ROLLBACK PER THE TRIM LAW

⇒ The estimated value of Lake Worth Generation L.L.C.'s tangible assets subject to ad valorem taxes is $65,000,000. The City of Lake Worth's present total tax base is approximately $650,000,000

⇒ The Lake Worth Generation Project will result in an increase in the City's tax base of approximately 10%. The resultant impact on the local property taxes is a reduction of approximately 10%

⇒ Reductions in the City's tax rate will help attract new businesses to the City of Lake Worth and will encourage existing businesses to expand

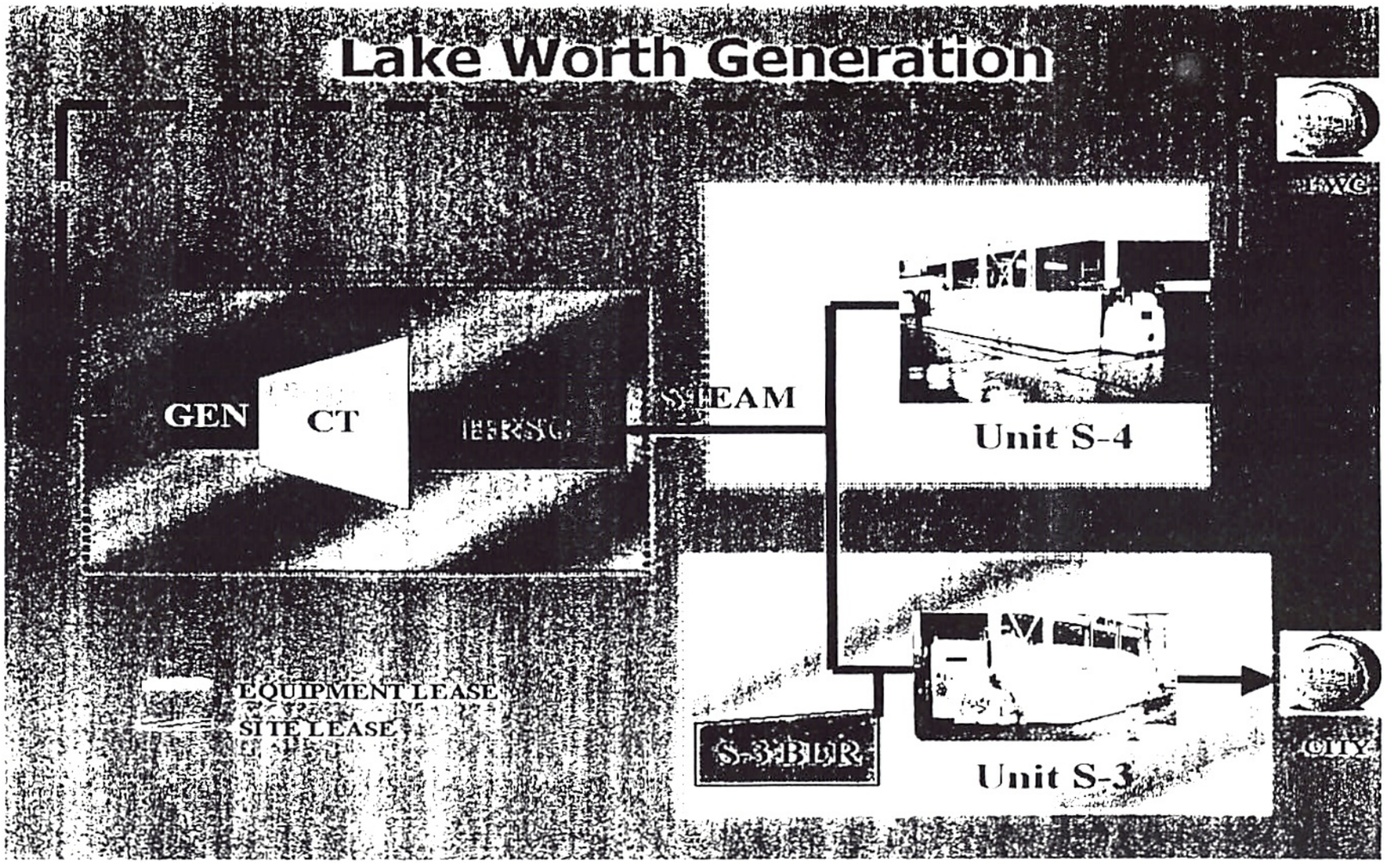
STATE OF THE ART EQUIPMENT RESULTS IN A REDUCTION OF AIR EMISSIONS

⇒ **The City of Lake Worth's Unit S-3 shall receive all its steam requirements from the Lake Worth Generation, L.L.C. Project. The City's 30 year old inefficient boiler will no longer have to operate except for standby mode.**

⇒ **The substitution of steam from the Unit 3 boiler results in a reduction of approximately 260 tons of Nitrous Oxide per year in air emissions, (the equivalent of 10,000 cars).**

⇒ **There is a 91% reduction in air emissions (NOx and CO) in a comparison of the total power produced versus the emissions produced from: (i) the new state of the art combustion turbine; (ii) the City of Lake Worth's Unit S-3; and (iii) Lake Worth Generation L.L.C.'s Unit S-4, versus the power and emissions produced currently from the City's S-3 Boiler.**

PROJECT SCHEMATIC



P. B. C. Exemption Application No. 00-2
(EE013-A)

ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION APPLICATION

Chapter 196, Florida Statutes

To be filed with the Board of County Commissioners, the governing board of the municipality, or both, no later than March 1 of the year the exemption is desired to take effect.

1. Business name and mailing address: Lake Worth Generation, L.L.C.
   245 Winter Street, Suite 300, Waltham, MA 02451

2. Please give name and telephone number of owner or person in charge of this business:
   Name: Brian Chatlosh Telephone No. 781-370-1500

5. 3. Exact location (legal description or street address) of property for which this report is filed. The new electrical generating facility located within the boundaries of the Tom G. Smith Power Plant (owned and operated by the City of Lake Worth) 117 College Street, Lake Worth, FL 33461. **Please see Attachment 1 for the legal description**

6. Date you began business at this facility: January 19, 1999. (estimated) date of commercial operation is August 2002

5. a. Description of the improvements to real property for which this exemption is requested:
   Please see Attachment 2 for improvements to real property

   b. Date of commencement of construction of improvements:
   Construction is planned to commence in August 2000.

6. a. Description of the tangible personal property for which this exemption is requested and date when property was, or is to be purchased: Provide this information on the attached for PB-418(6a), "Tangible Personal Property."

   b. Average value of inventory on hand: Estimated to be $1,500,000.

   c. Any additional personal property not listed above for which an exemption is claimed must be returned on form DR-405 (Tangible Personal Property Tax Return) and a copy attached to this form.

7. a. Do you desire exemption as a "New Business" [X] or an "Expansion of an Existing Business" [ ]

   b. Do you desire exemption as a "Real Property" [ ] and/or "Tangible Personal Property" [X]

8. Describe the type or nature of your business: Wholesale electric generating facility.

9. Trade Level (check as many as apply): Trade level (check as many as apply): Wholesale [X]
   Manufacturing [X] Professional [ ] Service [ ] Office [ ] Other [ ]

10. a. Number of full-time employees to be employed in Florida: 13 hired prior to commercial operation (attach current payroll roster as of January 1st of the year the exemption is being sought; provide hire dates; omit names of employees)

    b. If an expansion of an existing business:

       (1) Net increase in employment **Please see Attachment 3 for the Jobs Creation explanation**

       (2) Increase in production output resulting from this expansion **Please see Attachment 4**

EXHIBIT "B-1"

G-1

11. Sales factor for the facility representing exemption:
Total sales in Florida from this facility – One (1) location only _____ divided by
Total sales everywhere from this facility – One (1) location only _____ = **Not Applicable**

12. For office space owned and used by a corporation newly domiciled in Florida:

a. Date of Incorporation in Florida: Lake Worth Generation, L.L.C., the business entity, was organized in Delaware and has applied for and received authorization to transact business in Florida

c. Number of full-time employees at this location: **Please see Attachment 3**

13. If requesting an exemption due to location in a slum or blighted area, please furnish such additional information as required by the County Commission, City Commission, or Property Appraiser.

I hereby request the adoption of an ordinance granting an exemption from ad valorem taxation on the above property pursuant to Section 196.1995, Florida Statutes. I agree to furnish such other reasonable information as the Board of County Commissioners, the governing authority of the municipality, or the Property Appraiser may request in regard to the exemption requested herein. I hereby certify that the information and valuation stated above by me is true, correct and complete to the best of my knowledge and belief. (If prepared by someone other than the taxpayer, his declaration is based on all information of which he has any knowledge.)

DATE: 2/28/00 SIGNED: _____
(Preparer)

SIGNED: Brian Chatlosh /LT _____
(Preparer's Address)

TITLE: Manager _____
(Preparer's Telephone Number)

- continued –

PROPERTY APPRIASIER'S USE ONLY

- see EXHIBIT "B.2" –

EXHIBIT "B.1"

PB-418
R.1/97

PALM BEACH COUNTY 00-2
(EE013-A)

ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION APPLICATION

Chapter 196, Florida Statutes

- continued from Exhibit "B.1" -

Business name: LAKE WORTH GENERATION, LLC TPP ACCOUNT NO: 137327

PROPERTY APPRAISER'S REVISED CERTIFICATE

PROPERTY APPRAISER'S USE ONLY

I. Total revenue available to the county ~~or municipality~~ for the current fiscal year from ad valorem tax sources:
1999 = $67,459,795,497 x 4.6000 mills = $ 310,315,059

II. Revenue lost to the county ~~or municipality~~ for the current fiscal year by virtue of exemptions previously granted under this section: 1999 = $ 17,091,205 x 4.6000 mills = $ 78,620

III. Estimate of the revenue which would be lost to the county ~~or municipality~~ during the current fiscal year if the exemption applied for were granted had the property for which the exemption is requested otherwise had been subject to taxation:
1999 = $ 1,938 x 4.6000 mills = $ 891

Applicant's planned future acquisitions = $ 65,059,000 x 4.6000 (est) = $299,271

IV. Estimate of the taxable value lost to the county ~~or municipality~~ if the exemption applied for were granted:
Improvements to Real Property n/a **Personal Property** $ 1,938 (2000)
$ 65,059,000 (planned future acquisitions)

V. I have determined that the property listed above is to be incorporated into
a New Business [XX], an Expansion of an Existing Business [ ], or Neither [ ].

VI. Last year for which exemption may be applied 2009

DATE: May 1, 2000 **SIGNED:** Gary R. Nikolits
Gary R. Nikolits
Palm Beach County Property Appraiser

RETURN TO BE FILED NOT LATER THAN MARCH 1

TANGIBLE PERSONAL PROPERTY
ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION
CHAPTER 196, FLORIDA STATUTES

6.a Description of the tangible personal property for which this exemption is requested and date when property was purchased.

CLASS OR ITEM	AGE	DATE OF PURCHASE	ORIGINAL COST	GOOD	AVERAGE	POOR	TAXPAYER'S ESTIMATE OF FAIR MARKET VALUE
General Electric Combustion Turbine*	New	Feb. 2002	$35,509,000	X			$35,509,000
Heat Recovery Steam Generator**	New	**The following items are to be procured**		X			$9,500,000
Steam Turbine Generator Set	New			X			$6,200,000
Condenser	New			X			$550,000
Circulating Water Pump**	New			X			$500,000
Cooling Tower	Rebuilt			X			$400,000
Boiler Feed Pumps**	New			X			$400,000
Water Treatment Systems*	New			X			$300,000
Piping System**	New			X			$1,600,000
Oil Tank**	New			X			$200,000
Electrical Distribution**	New			X			$2,500,000
Electrical Generation**	New			X			$2,500,000
Emission Monitoring System*	New			X			$300,000
Heat Controls**	New			X			$2,000,000
Equip Foundations and Walls**	New			X			$2,100,000
Pipe Racks**	New			X			$500,000

***Pollution Control Equipment** ****City Participation**

PALM BEACH COUNTY EA-97-_____

APPLICATION ADDENDUM

ECONOMIC DEVELOPMENT
AD VALOREM TAX EXEMPTION

APPLICANT NAME:

Lake Worth Generation, L.L.C.

NOTICE:

This addendum is to be used by the applicant to provide additional information required by Economic Development Ad Valorem Tax Exemption Ordinance No. 94-21, as amended, and to provide other information requested by the Board of County Commissioners and the entities which will review the application.

When an applicant is applying for an exemption on Tangible Personal Property, the applicant must fill out and include Florida Department of Revenue form DR-405 (Tangible Personal Property Tax Return) to provide sufficient detail: ITEMIZED LIST or DEPRECIATION SCHEDULE showing original cost and date of acquisition. Form DR-405 is referenced on the Application – Item 6(c).

When an applicant is not seeking an exemption on Tangible Personal Property, but requesting an exemption on Real Estate only, the applicant is not required to submit Florida Department of Revenue form DR-405.

1. Length of exemption *requested* is total of 40 years (length of exemption approved is sole discretion of County Commission and commences on the adoption date of the ordinance granting the exemption).

2. Property Owner: Name: Lake Work Generation, L.L.C.
   Address: 245 Winter Street, Suite 300, Waltham, MA 02451

   Telephone No. 781-370-1500 FAX No. 781-370-1594

3. Property Control Number(s): **Please see Attachment 1 for legal description**

4. Authorized Agent: Name Brian Chatlosh

   Address 245 Winter Street, Waltham, MA 02451
   Telephone No. 781-370-1500 FAX No. 781-37-1594

5. Business is/will be located in an enterprise zone: Yes [ ] No [X]

   Enterprise Zone Name: _____

6. Expected number of employees who will reside in Palm Beach County

   Please see Attachment 3, it is anticipated that all employees will be residents of Palm Beach County hired prior to commercial operation

   (verify Palm Beach County residence of new employees; attach current payroll roster as of January 1st of the year the exemption is being sought; provide hire dates; omit names of employees)

7. Average wage of employees: $55,000 per year

8. Environmental impact of business (identify the number & type of environmental permits required as a result of this project; e.g., air, soil & water pollution, water & sewer provision, dredge and fill, RCRA industrial wastewater treatment): **Please see Attachment 5**

9. Existing business is in violation of a federal, state, or local law or regulation governing environmental matters: Yes [ ] No [X]
   If answer is Yes, explain: _____

10. Anticipated volume of business or production: Annual sales is estimated to be $40,000,000

EXHIBIT "B.3"

G-2

11. The relocation of expansion would occur without the exemption: Yes [ ] No [X]

12. Cost and demand for services (identify source of existing services and which existing services will need to be increased including costs for existing/increased services; provide attachments if necessary):

Utilities	125	Existing service, City of Lake Worth
Insurance	200	
Spare Parts	$150	
Routine Maintenance	$95	
Water & Chemicals	$237	Existing service, City of Lake Worth
Consumables (lube oil, gaskets, filters, etc.)	$50	

13. Source of supplies (local or otherwise; identify in specific terms the source, type and volume of supplies; provide attachments if necessary):

Utilities	Local	Existing service, City of Lake Worth
Insurance		
Spare Parts	Local	
Routine Maintenance	Local	
Water & Chemicals	Local	Existing service, City of Lake Worth
Consumables (lube oil, gaskets, filters, etc.)	Local	

14. Business is/will be located in a community redevelopment area (CRA): Yes [ ] No [X]

CRA Name _____

I hereby certify that the information and valuation stated above by me is true, correct and complete to the best of my knowledge and belief, including any attached statements, schedules, etc. (If prepared by someone other than the taxpayer, his declaration is based on all information of which he has any knowledge.)

DATE: 2/28/00 SIGNED: _____ (Preparer)

SIGNED: Brian Chatlosh /LF _____ (Preparer's Address)

TITLE: MANAGER _____ (Preparer's Telephone Number)

EXHIBIT "B.3"

G-2

PAGE 2 **TANGIBLE PERSONAL PROPERTY TAX SCHEDULES (ENTER TOTALS ON PAGE 1)**

ASSETS PHYSICALLY REMOVED DURING LAST YEAR
Property fully depreciated but continuing in service must be reported on the schedules below.

RETIRED, SOLD, TRADED, ETC.

DESCRIPTION	AGE	YEAR ACQ.	TAXPAYER'S EST OF FAIR MKT VALUE	ORIGINAL INSTALLED COST	

LEASED, LOANED, AND RENTED EQUIPMENT Please complete if you hold equipment belonging to others.

NAME AND ADDRESS OF OWNER OR LESSOR	DESCRIPTION	YEAR ACQUIRED	YEAR OF MFG.	RENT PER MONTH	RETAIL INSTALLED COST NEW	LEASE PURCHASE OPTION YES	NO

LINE 10 Enter Applicable Line Number (10-24) From Page 1

DESCRIPTION OF ITEM	AGE	YEAR PURCHASED	TAXPAYER'S ESTIMATE OF FAIR MARKET VALUE	TAXPAYER'S ESTIMATE OF Condition Good	Avg	Poor	ORIGINAL INSTALLED COST	APPRAISER'S USE ONLY Condition	
Office Chair	1	99	75		X		100		
Office Chair	1	99	75		X		100		
Table	1	99	75		X		100		
Telephone 2 Lines	1	99	125		X		150		
Office Chair	1	99	75		X		100		
Chair	1	99	25		X		50		
Enter TOTALS on Front - Continue on Separate Sheet If Necessary			450	X	X	X	600	X	

LINE 11 Enter Applicable Line Number (10-24) From Page 1

DESCRIPTION OF ITEM	AGE								
HP Printer	1	99	250				250		
Fax Machine	1	99	500				500		
Lap Top	3	96	650				750		
Enter TOTALS on Front - Continue on Separate Sheet If Necessary			1400	X	X	X	1500	X	

LINE _____ Enter Applicable Line Number (10-24) From Page 1

DESCRIPTION OF ITEM	AGE								
Enter TOTALS on Front - Continue on Separate Sheet If Necessary				X	X	X		X	

LINE 22 **EQUIPMENT OWNED BY YOU BUT RENTED, LEASED, OR HELD BY OTHERS**

LEASE NO	NAME/ADDRESS OF LESSEE ACTUAL PHYSICAL LOCATION	DESCRIPTION	AGE	YEAR PURCHASED	RENT PER MONTH	TERM	TAXPAYER'S ESTIMATE OF FAIR MARKET VALUE	TAXPAYER'S ESTIMATE OF Condition Good	Avg	Poor	RETAIL INSTALLED COST NEW
								X	X	X	

ATTACHMENT 1

Legal Description of Lease Area No. 1

Legal Description of Lease Area No. 1:

A parcel of land situate in Section 28, Township 44 South, Range 43 East, Palm Beach County, Florida, being a portion of Tracts 9, 10, and 16, subdivision of the west one-half of Section 28, Township 44 South, Range 43 East, according to the plat thereof, as recorded in Plat Book 5, Page 12 of the public records of said Palm Beach County, Florida, being more particularly described as follows:

Commencing at the Northeast corner of the Northwest one-quarter (NW ¼) of said Section 28; thence South 01°23'09" West, along the East line of said NW ¼, a distance of 1527.52 feet; thence North 88°36'58" West, departing said East line, a distance of 569.05 feet to a point on the South Right of Way line of 3rd Avenue as shown on the, aforementioned subdivision of the West one-half of Section 28, Township 44 South, Range 43 East, said point being the Point of Beginning; thence South 01°23'02" West, departing said South line, a distance of 418.46 feet; thence South 88°36'58" East, a distance of 34.19 feet; thence South 01°23'02" West, a distance of 219.10 feet to a point on the South line of said Tract 9, said point also being on the North line of Sunrise Court, according to the plat thereof, as recorded in Plat Book 12, Page 52 of the aforementioned public records of Palm Beach County; thence North 88°36'58" West, along said South and North lines, a distance of 98.23 feet; thence South 01°28'24" West, departing said South line of Tract 9 and along the West line of said plat of Sunrise Court, a distance of 297.56 feet; thence North 88°51'23" West, departing said West line, a distance of 156.10 feet to a point on the West Right of Way line of Interstate 95 (State Road No. 9) per Florida Department of Transportation Right of Way map for State Road No. 9 (I-95), Section 93220-2417(2405), Sheet 4; thence North 13°29'18" West, a distance of 250.84 feet to the point of curvature of a curve concave to the East having a radius of 2209.83 feet; thence Northerly along the arc of said curve through a central angle of 02°43'08", an arc distance of 104.87 feet; thence South 88°51'23" East, a distance of 190.89 feet; thence North 01°31'59" East, a distance of 509.85 feet; thence South 88°36'58" East, a distance of 74.02 feet; thence North 01°23'02" East, a distance of 80.74 feet; thence South 88°36'58" East, a distance of 43.25 feet to the Point of Beginning.

Containing 143,694.09 square feet or 3.3 acres, more or less.

Attachment 2

Project Description

ATTACHMENT 2

LAKE WORTH GENERATION IMPROVEMENTS TO REAL PROPERTY

The property is located at the Tom G. Smith municipal power plant owned by the City of Lake Worth. The improvements include equipment owned and installed by Lake Worth Generation, L.L.C. (LWG), and equipment leased from the City of Lake Worth. LWG will own and install a nominal 165 MW rated combustion turbine generator, a new Unit S-4 steam turbine generator with a nominal capacity of 47.5 megawatts and heat recovery steam generator (HRSG). The primary fuel for the unit will be natural gas and alternative fuel will be No. 2 distillate oil.

The HRSG will provide steam for two (2) purposes: (1) to provide a source of steam to the new Unit S4 turbine electric generator owned by LWG; and (2) to provide an alternate source of steam to the City owned and controlled Unit S3 turbine generator.

LWG will undertake modifications to maximize the facility's efficiency and production capacity. Modifications proposed are, repair or replacement of various system pumps, valves, pipes and equipment components and modification of electric systems to accommodate any increased electrical output. Modifications will be made to existing structures and support systems necessary to facilitate, implement and operate the Project described above.

LWG will also provide an alternate source of steam to the City controlled Unit S3 steam turbine and electric generator which has a nominal rating of 26.5 megawatts. Unit S3 will be reconfigured to accept steam from two sources: the existing S3 boiler or the Project's HRSG.

ATTACHMENT 3
LAKE WORTH GENERATION, L.L.C. JOB CREATION

⇒ **For Phase I, Lake Worth Generation L.L.C. through an arrangement with the City of Lake Worth, will create 13 full time positions and help to preserve the remaining 21 positions at the Smith Generation Facility.**

⇒ **Lake Worth Generation, L.L.C. has the option to construct via Phase 2 an additional 250Mw electrical generating plant thereby creating additional employment opportunities in the future.**

⇒ **The additional benefit of the Lake Worth Generation Project to the City of Lake Worth, is a reduction in the City's production cost of electricity. The City's lower electrical rates will help attract new businesses to the City of Lake Worth's planned 318 acre Park of Commerce or encourage existing businesses to expand.**

ATTACHMENT 4

Increase in Productive Output

The generation capabilities of the Smith Plant affected by the expansion:

Present		After	
Unit S-1	7.5 Mw	Unit S-1	0 Mw
Unit S-2	7.5 Mw	Unit S-2	0 Mw
Unit S-3	26.5 Mw	Unit S-3	26.5 Mw
Unit S-4	32.5 Mw	Unit S-4	47.5 Mw
		New CT	170 Mw
Total	74 Mw		244 Mw

Increase in productive output = 329%

The Lake Worth Generation Facility consists of industrial machinery and equipment, which is an integral part in the manufacturing process for the production of electrical and steam energy.

Attached please find a copy of the Department of Revenue case and the applicable statute, which states that Florida tax law defines electricity to be tangible personal property.

Note: Exemption List (Exhibit B) attached.

Jan 27, 1987

IN RE: DOR 84-2A

Jacksonville Electric Authority And
Florida Power & Light Company,
Co-Owners Of St. Johns River Power Park,
Units One And Two

PETITION FOR DECLARATORY STATEMENT

AMENDED DECLARATORY STATEMENT

Petitioners, Jacksonville Electric Authority and Florida Power & Light Company, Co-owners of St. Johns River Power Park, Units One and Two, request a Declaratory Statement from the Department of Revenue relative to the exemption from Florida sales and use tax of purchases of certain items and systems to be used in connection with the construction of the St. Johns River Power Park, Units One and Two (hereinafter referred to as the "Facility").

The following description of the Facility has been provided by the Petitioners:

B - Description of Facility.

SJRPP consists of two 612 megawatts coal-fired electric generating units together with all necessary apparatus, equipment, materials and appurtenances necessary and appropriate

for satisfactory operating of the units. Each of the units at SJRPP will include a steam generator, turbine generator, air quality control system, circulating water system, and associated equipment for each major component. Facilities common to each unit are the chimney, switchyard, fuel and materials handling system, and the water and waste management systems. External to the rail loop is an area of land for the potential disposal of solid waste from the by-products of combustion and flue gas desulfurization and for environmental buffer areas.

The Petitioners, as a part of their Petition for Declaratory Statement, have attached a list of items and systems as Exhibit A (hereinafter referred to as the "Original Exhibit A") which Petitioners assert consist of machinery and equipment necessary in the production of steam energy by the Facility. By letter dated May 17, 1984, Petitioners submitted an additional Exhibit A (hereinafter referred to as the "Supplemental Exhibit A"), in response to a request by the Department of Revenue for additional descriptive information with respect to the items and systems listed on the Original Exhibit A attached to the Petition for Declaratory Statement. For ease of reference, the items and systems listed on the original Exhibit A have been numbered 1 through 96 on the attached copy of the original Exhibit A.

In the Petitioners' letter of May 17, 1984, Petitioners indicated the following clarification with regard to the use of the supplemental Exhibit A:

Please note that the title of certain of the items and systems listed on the Original Exhibit A to the Petition for Declaratory Statement with respect to coal handling machinery and equipment have been changed. In particular, the systems described as Crusher House SWGR Room, CH- Unloading Equipment, Transfer House #1, TH #1-Unloading, Equipment, Transfer House #2, and TH #2-Unloading Equipment have been deleted. These items are included in

the descriptions titled Coal Handling Building, Coal and Limestone Handling Switchgear Building and Transfer House "C".

As a part of the Petition for Declaratory Statement, Petitioners requested a hearing before the Department of Revenue. On June 8, 1984, a public hearing was conducted by Tom Swindal, Assistant Director of the Division of Audits, on behalf of the Department of Revenue. During the hearing, the Petitioners provided additional information and documentation concerning the items and systems under review. Additionally, Petitioners presented their position with regard to the applicable law and a document entitled "Comments of Jacksonville Electric Authority".

The declaratory statement requested by the Petitioners, as set out on page 5 of the Petition for Declaratory Statement, is as follows:

> Petitioners seek a Declaratory Statement of the Department of Revenue that the machinery and equipment which constitute the items and systems listed on Schedule A attached hereto are exempt from the tax imposed by Section 212 pursuant to Section 212.08(5)(c), F.S.
>
> Section 212.08(5)(c), Florida Statutes (1983), provides:
>
> 212.08 Sales, rental, use, consumption, distribution, and storage tax; specific exemptions. -- The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following tangible personal property are hereby specifically exempt from the tax imposed by this chapter. * * * *

854 (Fla. 1979). Webster's Collegiate Dictionary, C. & C. Merriam Co. (1981), defines the word "necessary" as "an indispensable item, essential". As an adjective, "necessary" is defined as "logically unavoidable, absolutely needed, required". Petitioners submit that the machinery and equipment constituting the items and systems listed on Schedule A are "required" for the Petitioners to produce steam energy.

As to the term "in" the Petitioners argue at page 4 of their Petition:

> Moreover, Section 212.08(5)(c), F.S., quote above, states that the exemption applies to machinery and equipment "necessary in the production of", not "necessary for the production of". As a result, any machinery and equipment logically required and essential to produce steam energy should be exempt. Thus, the exemption should not be limited to machinery and equipment physically producing steam energy, but must also include machinery and equipment ancillary to the production of steam energy, such as equipment utilized to move coal to the boiler, without which steam energy could not be produced. The statutory language does not support a contrary position.

Finally, with regard to the words "machinery and equipment" the Petitioners refer to the definition of these words found In Section 212.08(5)(b) and 212.08(5)(d), Florida Statutes (1983). According to Petitioners, these sections define "machinery and equipment" as "Section 38 property". Petitioners argued at the public hearing on this matter the following with regard to "section 38 property":

Under Section 48(a)1(b)i, of the Internal Revenue Code, and the regulations of the Internal Revenue Code has promulgated, Section 38 property includes more than just tangible personal property, but includes structures which are an integral part of the production of electrical energy.

The IRS regulations define a structure that is not a building to include essential items of equipment, which are integral parts of an activity. These things, which are probably a misnomer, the way they are described in our exhibit as buildings, are not buildings with the meaning under Section 48 of the Internal Revenue Code. They are really just structures, there is no human activity that goes on in the buildings, they are merely part of the equipment and machinery or part of the process that goes on inside the structure.

The Department of Revenue agrees that the words emphasized by the Petitioners are significant and that words of common usage must be construed in their plain and ordinary sense. In determining the meaning of the words utilized by the statute, several rules of statutory construction must be applied in determining the intent of the Legislature in enacting Section 212.08(5)(c), Florida Statutes (1983). The first such rule is the cardinal rule of statutory construction that the entire statute under consideration must be considered in determining the intent of the Legislature and effect must be given to every part of the provision being construed. State v. Gale Distributors, Inc., 349 So.2d 150 (Fla. 1977).

Closely related to this rule of statutory construction is the doctrine of construction noscitur a sociis. That is, the meaning of a particular word in a

statute should be determined by reference to words associated with it in the statute. See Carraway v. Armour & Co., 156 So.2d 494 (Fla. 1963).

In determining the meaning of the statute under review, it is also significant that Section 212.08(5)(c), Florida Statutes (1983), is a tax exemption statute. As such, it must be strictly construed against any person claiming the exemption. Tropical Shipping & Construction Co., Ltd., v. Askew, 364 So.2d 433 (Fla. 1978), Department of Revenue v. Skop, 383 So.2d 678 (Fla. 5th DCA 1980), Wanda Marine Corp. v. Department of Revenue, 305 So.2d 65 (Fla. 1st DCA 1974); and Sugar Cane Growers Coop. of Fla. v. Florida Rev. Comm., 179 So.2d 393 (Fla. 2d DCA, 1965).

Turning to the language of Section 212.08(5)(c), Florida Statutes (1983), it is evident that the Legislature did not intend to exempt every item purchased by a taxpayer which may be related to the production of steam or electrical energy. Several conditions must be met in order for the purchase of an item to qualify for exemption from sales tax (hereinafter referred to as the "Conditions for Exemption"):

1. "Machinery and equipment" must be purchased;
2. The machinery and equipment must be purchased for use at a fixed location;
3. The machinery and equipment must be "necessary in the production of electrical or steam energy";
4. The electrical or steam energy must be the result of burning boiler fuels other than residual oil;

5. The electrical or steam energy must be produced primarily for use in manufacturing, etc., for sale, items, of tangible personal property in this state; and
6. The purchaser must sign an affidavit stating that the item or items to be exempted are for the exclusive use designated in the statute.

Petitioners have indicated that all of the items and systems listed on the Original Exhibit A and in their amended petition constitute "machinery and equipment". In support of their position, Petitioners, have argued that the terms "machinery and equipment" are synonymous with "Section 38 property", as defined in Section 48(a)(b)(B)(i) of the Internal Revenue Code of 1954, as amended, and "includes more than just tangible personal property, but includes structures which are an integral part of the production of electrical energy". In support of their position, Petitioners rely on Sections 212.08(5)(b) and 212.08(5)(d), Florida Statutes (1983).

Section 212.08(5)(b), Florida Statutes, provides an exemption for "industrial machinery and equipment" used to increase productive output. The terms "industrial machinery and equipment" are defined in Section 212.08(5)(b)6.a., Florida Statutes (1983), as follows:

6. For purposes of the exemptions provided in subparagraphs 2 and 2., these terms have the following meanings:
a. "Industrial machinery and equipment" means "section 38 property" as defined in s.48(a)(1)(A) and (B)(i) of the Internal Revenue Code.... [Emphasis added]

Section 212.08(5)(d), Florida Statutes (1983), exempts "industrial machinery and equipment" used under federal procurement contracts. The definition of "industrial machinery and equipment" contained in Section 212.08(5)(d)4.e., Florida Statutes (1983), is almost identical to the definition contained in Section 212.08(5)(b)6.a., Florida Statutes (1983), quoted above.

The provisions relied upon by the Petitioners make it abundantly clear that the Legislature did not intend the terms "machinery and equipment" as used in the exemption provision under review to include Section 38 property. The terms used by the Legislature in Sections 212.08(5)(b) and 212.08(5)(d), Florida Statutes (1983), are "industrial machinery and equipment". Section 212.08(5)(c), uses the terms "machinery and equipment". Additionally, the definition of "industrial machinery and equipment" is specifically limited for purposes of the exemptions provided for in Sections 212.08(5)(b) and 212.08(5)(d), Florida Statutes (1983). Section 212.08(5)(b)6.a., provides that the definition contained therein is "[f]or purposes of the exemptions provided in subparagraphs [212.08(5)(b)]1. and [212.08(5)(b)]2..." Section 212.08(5)(d)4.d. provides that the definition contained therein is "[f]or purposes of this paragraph (212.08(5)(d)]...".

Finally, the fact that the Legislature specifically provided that industrial machinery and equipment means Section 38 property in Sections 212.08(5)(b) and 212.08(5)(d), Florida Statutes (1983), and did not similarly so provide in Section 212.08(5)(c), Florida Statutes (1983), is a clear indication that the Legislature did not intend that the terms "machinery and equipment" mean Section 38 property.

Condition for Exemption 2 listed above has not been discussed to any significant extent. Almost all of the items and systems which are the subject of this petition are to be used at a fixed location.

The third Condition for Exemption listed above, is that the machinery and equipment must be "necessary in the production of electrical or steam energy". Petitioners have asserted that the term "necessary" should be interpreted to mean "all machinery and equipment needed, both mechanically and legally, in production of steam energy". In support of this position, Petitioners argue that the term "necessary" means an indispensable item, essential and the term "in" means "with respect to, or with regard to". According to Petitioners, the term "in" does not mean "for".

The word necessary has been defined as follows:

This word must be considered in the connection in which it is used, as it is a word susceptible of various meanings. It may import absolute physical necessity or inevitability, or it may import that which is only convenient, useful, appropriate, suitable, proper, or conducive to the end sought. It is an adjective expressing degrees, and may express more convenience or that which is indispensable or an absolute physical necessity. It may mean something which in the accomplishment of a given object cannot be dispensed with, or it may mean something reasonably useful and proper, and of greater or lesser benefit or convenience, and its force and meaning must be determined with relation to the particular object sought. Kay County Excise Board v. Atchison, T. & S.I.R. Co., 185 Okl. 327, 91 P.2d 1087, 1088.

Black's Law Dictionary 1181.

In the document entitled "Comments of Jacksonville Electric Authority", filed by attorneys for Jacksonville Electric Authority, several court decisions cited in 28 Words and Phrases, Necessary, have been cited. Although none of the cited cases are directly on point, they do indicate that the term "necessary" does not always mean "an indispensable item,

essential". For example, in Indiana Broadcasting Corp. v. Star Stations of Indiana, 388 N.E. 2d 568, 573 (Ind. 4th DCA, 1979), the court stated:

> **"Necessary" does not have an exact meaning. It is flexible and relative; it is an adjective expressing degree. The degree may range from mere convenience to that which is indispensable....**
>
> **As the definition of "necessary" in Black's Law Dictionary, the cases cited by Petitioners and other cases cited in 28 Words and Phrases, Necessary, clearly show, the term by itself may mean anything from mere convenience to indispensable. In order to determine its meaning, the context in which it is used must be considered.**
>
> **In this situation, the key phrase is "necessary in production". The term "production" is defined as "the act or process of producing... the creation of utility... the making of goods available for human wants". Webster's New Collegiate Dictionary, 918 (1976).**
>
> **In Atwater v. Gaylord, 63 Wyo. 492, 184 P.2d 437 (1947), the court indicated that "production" denotes the creation of something. Thus "production" is the act or process of creating something.**
>
> **In this matter, the exemption is available for machinery and equipment "necessary in [the act or process of creating] steam or electrical energy". Based upon this definition and interpreting Section 212.08(5)(c), Florida Statutes (1983), strictly against the taxpayer, it is the conclusion of the Department of Revenue that only those items and systems listed on the Original Exhibit A as clarified by the Supplemental Exhibit A and in the amended petition which are actually used or to be used in the process of producing steam or electrical energy qualify for exemption. This conclusion holds**

whether the term "necessary" was intended to mean mere convenience or absolutely indispensable.

There does not appear to be any significant dispute over the fourth, fifth and sixth Conditions for Exemption. The items and systems listed on the Original Exhibit A which the Department of Revenue concluded in this Declaratory Statement are exempt, however, are exempt only if the steam energy or electrical energy they produce results from the burning of boiler fuels other than residual oil, the steam energy produced is primarily for use in electrical energy (tangible personal property) for sale in this State and an affidavit stating that the item or items to be exempt are for the exclusive use designated in Section 212.08(5)(c), Florida Statutes (1983).

One additional condition not specifically included in Section 212.08(5)(c), Florida Statutes (1983), must be met in order for the exemption to apply. Section 212.051, Florida Statutes (1983), provides:

> Notwithstanding any provision to the contrary, sales, use, or privilege taxes shall be collected with respect to any facility, device, fixture, equipment or machinery used primarily for the control or abatement of pollution or contaminants from manufacturing or industrial plants or installations, and any structure, machinery or equipment installed in the reconstruction or replacement of such facility, device, fixture, equipment or machinery.

As a result of the opinion of the First District Court of Appeal entered in the case of Jacksonville Electric Authority v. Department of Revenue, and Florida Power & Light Company v. Department of Revenue, dated March 31, 1986, the Department of Revenue and the parties to this action have reviewed all documents originally presented to the

Department as well as the tapes of the legislative hearings and amendments to the appropriate legislative bills in an attempt to accurately ascertain the legislative intent behind the exemption.

It does appear from the materials available from the legislative libraries and the Division of Archives that the intent of the Legislature was, in fact, to encourage the modification of existing industries in Florida to provide for less dependency upon foreign oils by encouraging replacement of existing boilers and plant operations to develop and utilize other alternative fuels in the production of products and in the production of electricity. It appears from the materials available to the Department that the Florida Legislature sought to give every encouragement to the utilities and other major fuel burners to build factories that would rely upon non-petroleum fuels.

The tapes and transcripts of the legislative hearings on this exemption appear to adopt the concept of an exemption for "systems". The May 27, 1980 Senate Committee hearing on HB 1506 discloses an amendment to that bill which clearly evidences an intent to encourage the or converting of systems to use alternative fuels. This intent, as noted by the First District Court of Appeal, "sounds much like the integrated plant theory" proposed by Jacksonville Electric Authority and Florida Power and Light. 486 So.2d at 1354.

Under the integrated plant theory, it is necessary to look at whether the disputed items operate harmoniously with currently exempt machinery to make an integrated and synchronized system. Niagara Mohawk Power Corp. v. Wanamaker, 144 N.Y.S.2d at 461.

Upon review of the Court's opinion, as well as the information gleaned from a review of the legislative journals and tapes of the legislative hearings, it is now the Department's position that the intent of the Legislature in passing s. 212.08(5)(c), F.S., was to adopt the integrated plant theory as the litmus test to be used in determining the extent of any exemptions under that section.

In an attempt to resolve all of the issues arising out of the original petition for declaratory statement filed by Florida Power and Light and Jacksonville Electric Authority, at the Department's request, Jacksonville Electric Authority and Florida Power & Light submitted an amendment to the petition suggesting that the turbine-generator and accessory equipment also qualify for the exemption from sales tax provided in s. 212.08(5)(c), F.S., because the electrical equipment produced by the generator is used "in manufacturing, processing, compounding, or producing for sale items of personal property in this state".

It appears from the clear wording of the opinion of the Court when read in conjunction with the sales tax law which defines electricity to be tangible personal property subject to the tax, that the intent of the Legislature would include equipment such as the turbine-generator and its accessory equipment.

Furthermore, subsequent to the decision of the First District Court of Appeal, the Department finds it unnecessary to address the matter of exemption of pollution control equipment under s. 212.051, because in its opinion, the First District Court of Appeal construed s. 212.08(5)(c), F.S.:

> "to include such pollution control equipment as 'necessary in the production of steam or electrical energy', notwithstanding that a plant could theoretically

produce electrical or steam energy without legally mandated pollution control equipment. No matter how theoretical the physics of producing steam or electrical energy in reality no equipment or machinery in Florida is going to produce electricity without the mandated pollution control equipment."

486 So.2d at 1355.

Therefore, based on the above analysis, the Department has reviewed the items set forth on Exhibit A for determining the status of these items under this revised declaratory statement. The results of this analysis are set forth in Exhibit B. To the extent that any statements or findings in the original declaratory statement are inconsistent, or different from those set forth in this amended declaratory statement, they are specifically found to be null and void.

DONE AND ENTERED this 27th day of January, 1987.

RANDY MILLER
EXECUTIVE DIRECTOR
DEPARTMENT OF REVENUE
STATE OF FLORIDA

FILED WITH THE CLERK THIS 27TH DAY OF January, 1987.

EXHIBIT B
ITEMS AND SYSTEMS WHICH CONSIST OF
MACHINERY AND EQUIPMENT
EXEMPT FROM THE SALES TAX
PURSUANT TO SECTION 212.08(5))c), F.S.

No.	Specific Systems of Machinery and Equipment	Tax Treatment of Systems of Machinery and Equipment
1.	Subsurface Improvements Related to Exempt Equipment	Prorated
2.	Waste Water Treatment - Above Grade	Exempt
3.	Waste Water Treatment - Below Grade	Exempt
4.	Permanent Railroad System	Taxable
5.	Well Water Supply System	Exempt
6.	Water Pretreatment System	Exempt
7.	Sanitary Sewage System	Taxable
8.	Yard Fire Protection System	Exempt
9.	Service Water System	Exempt
10.	Waste Water Treatment System	Exempt
11.	Above Ground Racks/Below Ground Trenches	Prorated
12.	Circulating Water Systems Structures	Exempt
13.	Control Building	Taxable
14.	Plant Water Service Equipment	Exempt
15.	Fire Protection Equipment - Lube Oil Purification Area	Exempt
16.	Coal Car Thawing Facility	N/A
17.	ID & FD Fan Driver Control Building	Taxable

18. Fly Ash Blower Building Taxable
19. Miscellaneous Coal Handling System Prorated
20. Coal Unloading Facility Exempt
21. Emergency Stackout System Exempt
22. Reclaim System Exempt
23. Crusher House and SWGR Room Prorated
24. CH - Unloading Equipment Exempt
25. Transfer House #1 Prorated
26. TH #1 - Unloading Equipment Exempt
27. Transfer House #2 Prorated
28. TH #2 - Unloading Equipment Exempt
29. Reclaim Hopper/Tunnel Exempt
30. Conveyors & Trippers Exempt
31. Emergency Conveyors Exempt
32. Primary Power Exempt
33. Coal Transporting Equipment (railroad cars are taxable but yard equipment is exempt) Prorated
34. Silo Bay Prorated
35. Silo Bay - Cranes and Hoists Exempt
36. Coal Equipment Fuel Oil Storage Tank Taxable
37. Ash Handling System N/A
38. Furnace Bottom Ash System Exempt
39. Instrumentation and Controls Exempt
40. Pyrites Handling System Exempt
41. Economizer Ash System Exempt
42. Fly Ash System Exempt
43. Miscellaneous Boiler Equipment Taxable

44. Boiler Steel Exempt
45. Boiler Miscellaneous Steel Exempt
46. Steam Gen. Lifting Equipment Exempt
47. Boiler Pressure Parts Exempt
48. Settings and Casings Exempt
49. Air Preheaters Exempt
50. Forced Draft Equipment Exempt
51. Pulverizer and Fuel Burning Equipment Exempt
52. Sootblowers and Piping Exempt
53. Boiler Ductwork Exempt
54. Dust Collectors N/A
55. Thermocouples Exempt
56. Induced Draft Fans Exempt
57. Light Oil Facilities Exempt
58. Electrostatic Precipitator Exempt
59. Induced Draft Equipment Exempt
60. Flue Gas Desulfurization System Exempt
61. Combustion Control Equipment Exempt
62. Boiler Instruments - Miscellaneous Exempt
63. Chemical Cleaning Piping Exempt
64. Plant Instrumentation Exempt
65. Feed Water and Condensation System Exempt
66. Main Steam Exempt
67. Hot Reheat Exempt
68. Cold Reheat Exempt
69. Extraction Steam Exempt
70. Auxiliary Steam Exempt

71. Condensate and Boiler Feed Piping Exempt
72. Air Evacuation Piping Exempt
73. Cooling Water System Piping Exempt
74. Demineralized Water Transfer Exempt
75. Seal Steam Exempt
76. Desuperheater Spray Exempt
77. Lube Oil Exempt
78. Closed Cooling Water System Exempt
79. Auxiliary Steam System - ASS Exempt
80. Condensers and Auxiliaries 80A-E, 80B-T, 80C-E Exempt
81. Circulating Water System Exempt
82. Cooling Towers Exempt
83. Auxiliary Power Transformers Exempt
84. Start Up Transformers Exempt
85. Battery Equipment Exempt
86. Inverter Exempt
87. Underground Conduit & Ducts Exempt
88. Metallic Conduit Exempt
89. Non-Metallic Exempt
90. Cable Tray System Exempt
91. Non-Segregated Cable Bus & Supports Prorated
92. Power Cable Prorated
93. Control and Instrument Cable Exempt
94. Control Boards, Switchgear & Motor Control Centers Exempt
95. Grounding for All Exempt Equipment Exempt
96. Flue Gas Desulfurization System Electrical Exempt
97. Turbine Generator Exempt

**(5) EXEMPTIONS: ACCOUNT OF USE. -- * * * *

(c) Machinery and equipment used in production of electrical or steam energy.-- The purchase of machinery and equipment for use at a fixed location, which equipment and machinery are necessary in the production of electrical or steam energy resulting from the burning of boiler fuels other than residual oil, is exempt from the tax imposed by this chapter. Such electrical or steam energy must be primarily for use in manufacturing, processing, compounding, or producing for sale items of tangible personal property in this state. However, the exemption provided for in this paragraph shall not be allowed unless the purchaser signs an affidavit stating that the item or items to be exempted are for the exclusive use designated herein....**

In addition, subsequent to the opinion of the First District Court of Appeal in Jacksonville Electric Authority and Florida Power and Light v. Department of Revenue, the Petitioner filed an amendment to their petition requesting the declaratory statement be expanded to include the turbine-generator and accessory equipment.

The Petitioners have focused primarily upon three words or phrases in Section 212.08(5)(c), Florida Statutes (1983), in determining the intent of the Legislature: "necessary," "in" and "machinery and equipment". As to the term "necessary" the Petitioners argue that this term should be interpreted to mean "all machinery and equipment needed, both mechanically and legally, in production of steam energy". Further, Petitioners argue on page 3 of their Petition:

> **The Florida Supreme Court has stated that "[i]t is a basic axiom of statutory construction that words of common usage, when appearing in a statute, should be construed in their plain and ordinary sense". State v. Cormier, 375 So.2d 852,**

Florida Statute

212.05 Sales, storage, use tax.--It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(a)1.a. At the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In

addition, such party shall pay any tax due and any penalty and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or airplane by or through a registered dealer under this chapter to a purchaser who, at the time of taking delivery, is a nonresident of this state, does not make his or her permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in which the boat will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his or her permanent place of abode in, this state, or is a noncorporate entity that has no individual vested with authority to participate in the management, direction, or control of the entity's affairs who is a resident of, or makes his or her permanent abode in, this state. For purposes of this exemption, either a registered dealer acting on his or her own behalf as seller, a registered dealer acting as broker on behalf of a seller, or a registered dealer acting as broker on behalf of the purchaser may be deemed to be the selling dealer. This exemption shall not be allowed unless:

a. The purchaser removes a qualifying boat, as described in sub-subparagraph f., from the state within 90 days after the date of purchase or the purchaser removes a nonqualifying boat or an airplane from this state within 10 days after the date of purchase or, when the boat or airplane is repaired or altered, within 20 days after completion of the repairs or alterations;

b. The purchaser, within 30 days from the date of departure, shall provide the department with written proof that the purchaser licensed, registered, titled, or documented the boat or airplane outside the state. If such written proof is unavailable, within 30 days the purchaser shall provide proof that the purchaser applied for such license, title, registration, or documentation. The purchaser shall forward to the department proof of title, license, registration, or documentation upon receipt.

c. The purchaser, within 10 days of removing the boat or airplane from Florida, shall furnish the department with proof of removal in the form of receipts for fuel, dockage, slippage, tie-down, or hangaring from outside of Florida. The information so provided must clearly and specifically identify the boat or aircraft;

d. The selling dealer, within 5 days of the date of sale, shall provide to the department a copy of the sales invoice, closing statement, bills of sale, and the original affidavit signed by the purchaser attesting that he or she has read the provisions of this section;

e. The seller makes a copy of the affidavit a part of his or her record for as long as required by s. 213.35; and

f. Unless the nonresident purchaser of a boat of 5 net tons of admeasurement or larger intends to remove the boat from this state within 10 days after the date of purchase or when the boat is repaired or altered, within 20 days after completion of the repairs or alterations, the nonresident purchaser shall apply to the selling dealer for a decal which authorizes 90 days after the date of purchase for removal of the boat. The department is authorized to issue decals in advance to dealers. The number of decals issued in advance to a dealer shall be consistent with the volume of the dealer's past sales of boats which qualify under this sub-subparagraph. The selling dealer or his or her agent shall mark and affix the decals to qualifying boats in the manner prescribed by the department, prior to delivery of the boat.

(I) The department is hereby authorized to charge dealers a fee sufficient to recover the costs of decals issued.

(II) The proceeds from the sale of decals will be deposited into the administrative trust fund.

(III) Decals shall display information to identify the boat as a qualifying boat under this sub-subparagraph, including, but not limited to, the decal's date of expiration.

(IV) The department is authorized to require dealers who purchase decals to file reports with the department and may prescribe all necessary records by rule. All such records are subject to inspection by the department.

(V) Any dealer or his or her agent who issues a decal falsely, fails to affix a decal, mismarks the expiration date of a decal, or fails to properly account for decals will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VI) Any nonresident purchaser of a boat who removes a decal prior to permanently removing the boat from the state, or defaces, changes, modifies, or alters a decal in a manner affecting its expiration date prior to its expiration, or who causes or allows the same to be done by another, will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VII) The department is authorized to adopt rules necessary to administer and enforce this subparagraph and to publish the necessary forms and instructions.

(VIII) The department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4) to administer and enforce the provisions of this subparagraph.

If the purchaser fails to remove the qualifying boat from this state within 90 days after purchase or a nonqualifying boat or an airplane from this state within 10 days after purchase or, when the boat or airplane is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat or airplane to return to this state within 6 months from the date of departure, or if the purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period, the purchaser shall be liable for use tax on the cost price of the boat or airplane and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2) and is mandatory and shall not be waived by the department. The 90-day

period following the sale of a qualifying boat tax exempt to a nonresident may not be tolled for any reason. Notwithstanding other provisions of this paragraph to the contrary, an aircraft purchased in this state under the provisions of this paragraph may be returned to this state for repairs within 6 months after the date of its departure without being in violation of the law and without incurring liability for the payment of tax or penalty on the purchase price of the aircraft if the aircraft is removed from this state within 20 days after the completion of the repairs and if such removal can be demonstrated by invoices for fuel, tie-down, hangar charges issued by out-of-state vendors or suppliers, or similar documentation.

(b) At the rate of 6 percent of the cost price of each item or article of tangible personal property when the same is not sold but is used, consumed, distributed, or stored for use or consumption in this state; however, for tangible property originally purchased exempt from tax for use exclusively for lease and which is converted to the owner's own use, tax may be paid on the fair market value of the property at the time of conversion. If the fair market value of the property cannot be determined, use tax at the time of conversion shall be based on the owner's acquisition cost. Under no circumstances may the aggregate amount of sales tax from leasing the property and use tax due at the time of conversion be less than the total sales tax that would have been due on the original acquisition cost paid by the owner.

(c) At the rate of 6 percent of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein; however, the following special provisions apply to the lease or rental of motor vehicles:

1. When a motor vehicle is leased or rented for a period of less than 12 months:

a. If the motor vehicle is rented in Florida, the entire amount of such rental is taxable, even if the vehicle is dropped off in another state.

b. If the motor vehicle is rented in another state and dropped off in Florida, the rental is exempt from Florida tax.

2. Except as provided in subparagraph 3., for the lease or rental of a motor vehicle for a period of not less than 12 months, sales tax is due on the lease or rental payments if the vehicle is

registered in this state; provided, however, that no tax shall be due if the taxpayer documents use of the motor vehicle outside this state and tax is being paid on the lease or rental payments in another state.

3. The tax imposed by this chapter does not apply to the lease or rental of a commercial motor vehicle as defined in s. 316.003(66)(a) to one lessee or rentee for a period of not less than 12 months when tax was paid on the purchase price of such vehicle by the lessor. To the extent tax was paid with respect to the purchase of such vehicle in another state, territory of the United States, or the District of Columbia, the Florida tax payable shall be reduced in accordance with the provisions of s. 212.06(7). This subparagraph shall only be available when the lease or rental of such property is an established business or part of an established business or the same is incidental or germane to such business.

(d) At the rate of 6 percent of the lease or rental price paid by a lessee or rentee, or contracted or agreed to be paid by a lessee or rentee, to the owner of the tangible personal property.

(e)1. At the rate of 6 percent on charges for:

a. All telegraph messages and long-distance telephone calls beginning and terminating in this state, telecommunication service as defined in s. 203.012, and those services described in s. 203.012(2)(a), except that the tax rate for charges for telecommunication service is 7 percent. The tax on calls made with a prepaid telephone calling card shall be collected at the time of sale and remitted by the dealer selling or recharging a prepaid telephone card.

(I) A prepaid telephone card or authorization number means the right to exclusively make telephone calls that must be paid for in advance and that enable the origination of calls using an access number, prepaid mobile account, or authorization code, whether manually or electronically dialed.

(II) If the sale or recharge of the prepaid telephone calling card does not take place at the dealer's place of business, it shall be deemed to take place at the customer's shipping address or, if no item is shipped, at the customer's address or the location associated with the customer's mobile telephone number.

(III) The prepaid phone card constitutes property in this state and subjects the selling dealer to the jurisdiction of this state for purposes of this subsection.

b. Any television system program service.

c. The installation of telecommunication and telegraphic equipment.

d. Electrical power or energy, except that the tax rate for charges for electrical power or energy is 7 percent.

Attachment 5

A) Cover letter from the Florida Department of Environmental Protection providing the Lake Worth Generation Project its Authority to Construct Permit

THE FOLLOWING PERMITS HAVE BEEN SUBMITTED

City of Lake Worth Planning and Zoning Board
Environmental Resource Permit
South Florida Water Management District water use permit
Palm Beach County Wastewater Discharge
Palm Beach County wellfield protection
NPDES Construction Stormwater
FAA Permits

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE OF FINAL PERMIT

In the Matter of an
Application for Permit by:

Brian Chatlosh, Manager
Lake Worth Generation, L.L.C.
245 Winter Street, Suite 300
Waltham, MA 02451

Permit No. 0990568-001-AC (PSD-FL-266)
186 MW Combined Cycle Gas Turbine Project
Palm Beach County, Florida

Enclosed is Final Permit No. 0990568-001-AC (PSD-FL-266). This permit authorizes Lake Worth Generation L.L.C. to construct a combined cycle, dual-fuel, General Electric Model 7FA combustion turbine with electrical generator set (186 MW) and heat recovery steam generator. As noted in the Final Determination (attached), minor changes to the draft permit were made at the requests of the applicant and EPA Region 4. This permit is issued pursuant to Chapter 403, Florida Statutes.

Any party to this order has the right to seek judicial review of it under section 120.68 of the Florida Statutes, by filing a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department of Environmental Protection in the Office of General Counsel, Mail Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The notice must be filed within thirty days after this order is filed with the clerk of the Department.

Executed in Tallahassee, Florida.

C. H. Fancy, P.E., Chief
Bureau of Air Regulation

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this Notice of Final Permit (including the Final permit) was sent by certified mail (*) and copies were mailed by U.S. Mail before the close of business on 11-4-99 to the person(s) listed:

Mr. Brian Chatlosh, LWG*
Mr. Paul Doherty, LWG
Mr. Ken Kosky, Golder Associates
Mr. James Stormer, PBCHD
Mr. Isidore Goldman, DEP SE District Office
Mr. Jim Little, EPA Region 4
Mr. Gregg Worley, EPA Region 4
Mr. John Bunyak, NPS

Clerk Stamp

FILING AND ACKNOWLEDGMENT FILED, on this date, pursuant to §120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Kim Tober (Clerk) 11-4-99 (Date)

Site Map Location of the Lake Worth Generation Project

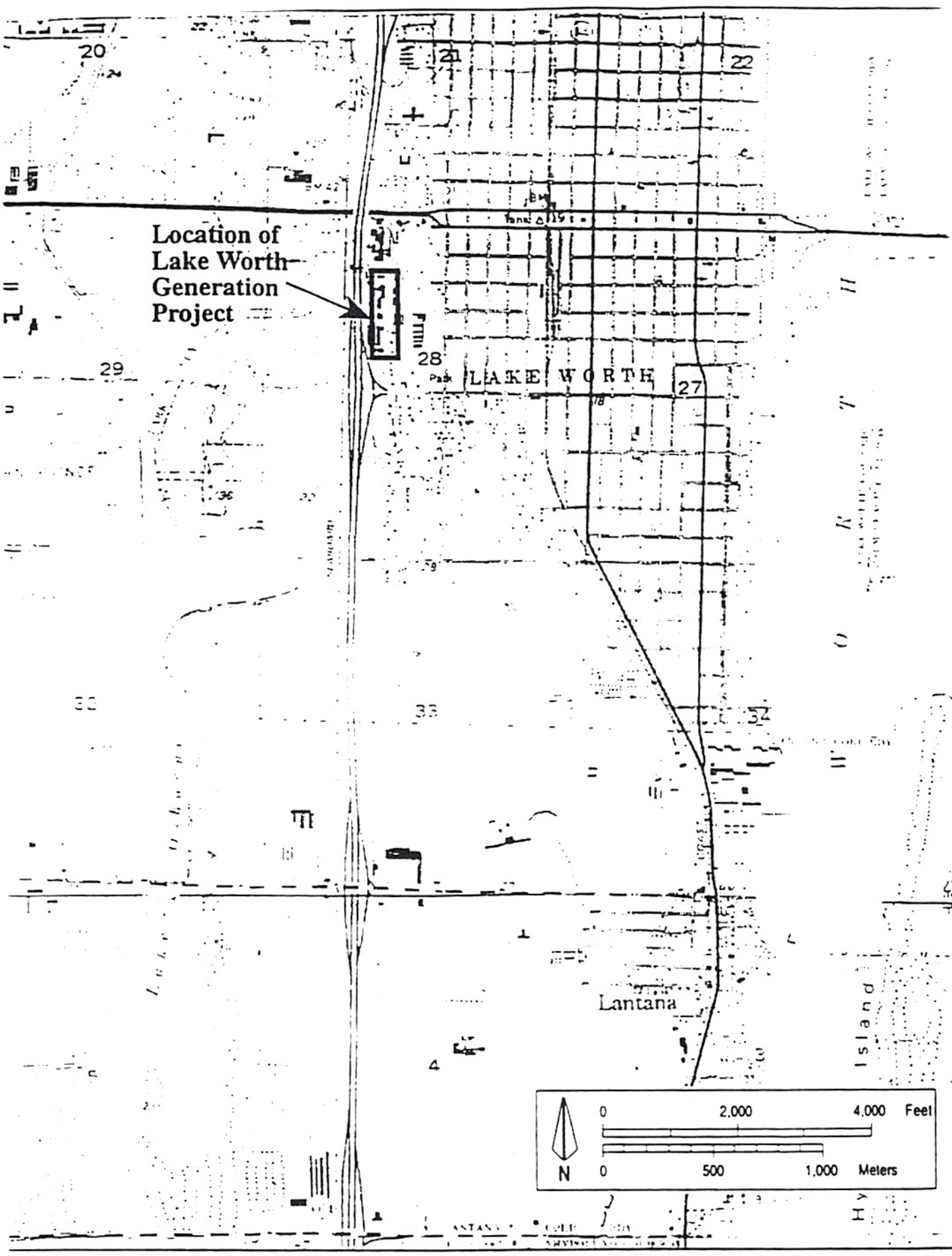
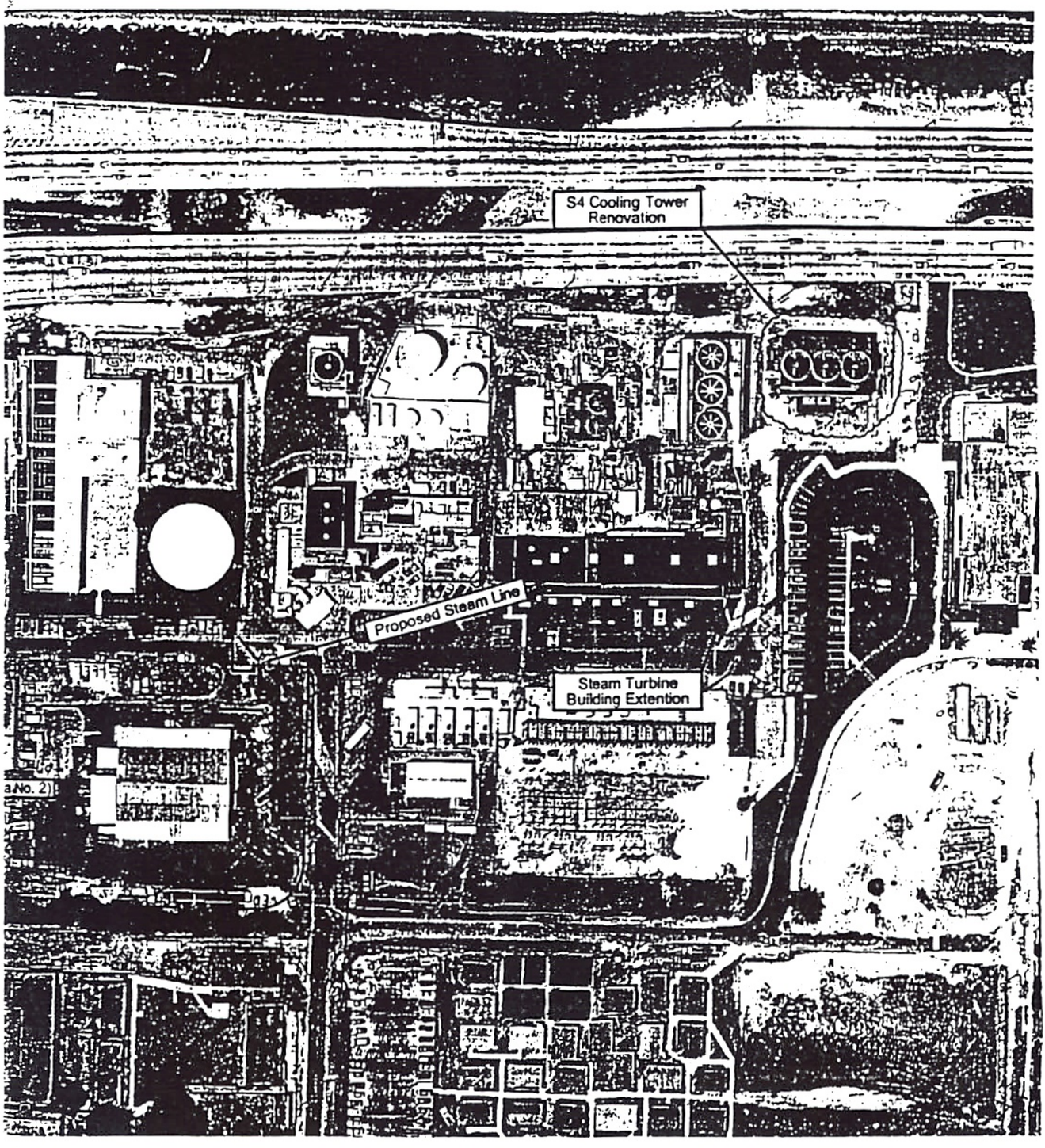


Figure 1-1
Site Map Location
Lake Worth Generation Project

Sources: Golder & Associates, Inc., 1999; USGS, 1983.

Golder Associates

Aerial Photograph of Thomas G. Smith Power Plant



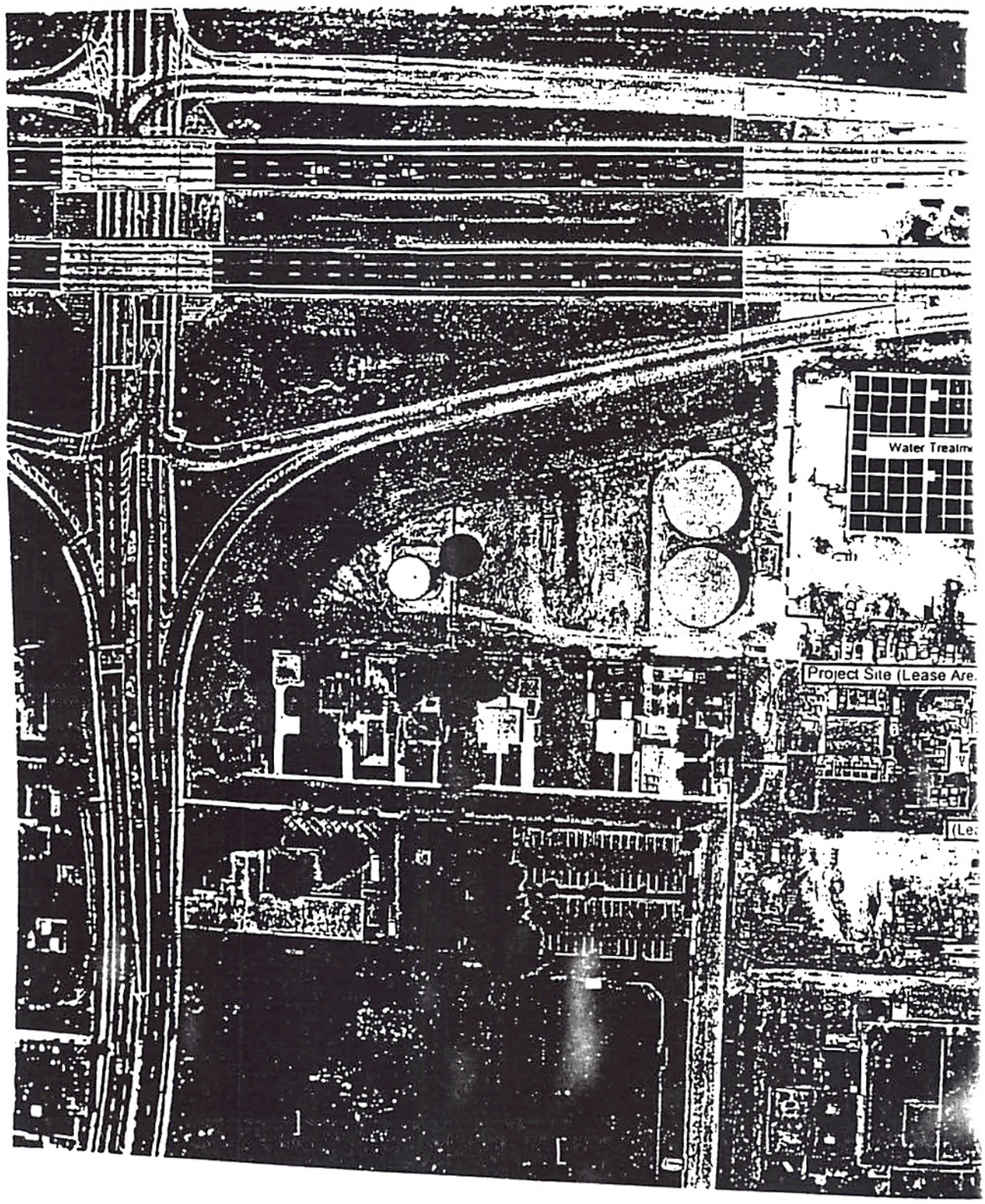
JOB No.:	983-9537	SCALE:	1"=100'
CAD BY:	CDT	DATE:	8/18/99
CHK BY:	AG	FILE No.:	aerial photo.dwg
REV BY:		DR SUBTITLE:	-

Repowering Project (Lease Area No. 1)
Thomas G. Smith Power Plant
Lake Worth, Florida

Golder Associates

Location of Off Site Construction

FIGURE 1


Water Treatm
Project Site (Lease Are

BUSINESS DEVELOPMENT BOARD
of Palm Beach County, Inc.

PARTNERS IN PROGRESS
Palm Beach County Board of County Commissioners

BOARD OF ADVISORS
BellSouth Business Systems, Inc.
Ellison Graphics Corporation
Emerald Dunes Golf Group
First Union National Bank
Florida Power & Light
Joseph E. Seagram & Sons, Inc.
McGladrey & Pullen, LLP
NationsBank
TrizecHahn Office Properties

CORPORATE LEVEL
AT&T Wireless Services
Applied Card Systems
Arvida Realty Services - Corporate Relocation Division
AutoNet, Inc.
English, McCaughan & O'Bryan, P.A.
Florida Crystals Corporation
Golden Bear Golf, Inc.
Golden Triangle Management Corp.
LRP Publications
Materials, Inc.
Palm Beach Interactive
Publix Super Markets, Inc.
Republic Security Bank
Sikorsky Aircraft Corporation
Sprint PCS
Vista Center Corporate Park
Wachovia Bank, N.A.
The Wackenhut Corporation

PRESIDENT'S LEVEL
Abacoa Development Company
Adelphia
American Media, Inc.
Ansbach Companies
Avalon Health Plan
BE Aerospace, Inc.
Bandit Electric
Baron Sign Manufacturing
Burke, Dyrent & Associates, Inc.
B.L.L.S. Visions, Inc.
Blue Lake Management, Inc.
City of Boca Raton
City of Boynton Beach
The Business Journal Serving South Florida
Cadory-Judge Grove
Caesars USA
Casalluna Construction and Development, Inc.
Centex Rooney Construction Company
Chaney Brothers, Inc.
Comite of Interests, Inc.
Coldwell Banker Residential Real Estate, Inc.
Cybercial Bank
The Copy Place Express, Inc.
CSR Rinker Materials Corporation
Data Resource Group, Inc.
de Geerdicks Development Ventures, Inc.
Dorland & Company, CPAs, P.A.
Edwards & Angell, LLP
Fisher-Clark Construction, Inc.
Florida Coca-Cola Bottling Company
Florida Realty Investment, Inc.
Florida Stage
Florida Travel Magazine
The Gardens of the Palm Beaches
Gee & Jenson Engineers-Architects-Planners, Inc.
GetCollege.Com, Inc.
The Governors Club of the Palm Beaches
Graphics Illustrated, Inc. - A Division of MSI-WEB, Inc.
Great Lakes Technologies, Inc.
Gunster, Yoakley, Valdes-Fauli & Stewart, P.A.
The Haskell Company
HIP Health Plan of Florida, Inc.
Hodgson, Russ, Andrews, Woods & Goodyear, LLP
Hoffman's Chocolate Shoppes
Holland & Knight, LLP
Impulse Innovations, Inc.
Investor Services, Inc.
ITRA/The Motley Group, Inc.
JED Printing & Graphics, Inc.
Marquette Medical Systems, Inc.
McCraney Property Company, Inc.
Mell's Pride Limited Partnership
MTS Companies
Nason, Yeager, Gerson, White & Lioce, P.A.
New England Tech and Century Institute
Northern Trust Bank of Florida
Oce Printing Systems USA, Inc.
O'Connor & Taylor, Inc.
Palm Beach Media Group
Palm Beach Park of Commerce
The Palm Beach Post
Palms West Hospital
Paradise Productions
The PC Professor Computer Training Workshops
Peacock + Lewis Architects and Planners, Inc.
PGA of America
Port of Palm Beach
Post & Mulvaney
PricewaterhouseCoopers, LLP
PrimeCo Personal Communications LP
Prudential Individual Financial Services
The Pugliese Company
Qwest Communications International, Inc.
Residual Realty & Investments, Inc.
Russell Sandberg, Inc.
Rutherford, Mulhall & Wampa, P.A.
Sandler Business Institute of Florida
Schwab, Twitty & Hanser Architectural Group, Inc.
Sirens Information and Communication Networks, Inc.
Song + Associates, Inc.
SouthTrust Bank of Florida
Star Group International, Inc.
Steel Hector & Davis LLP
Summit Global Partners, Inc.
Sun-Sentinel
Symphonic Inc./Overdrive International
TAD Technical - ARMHCO Division
Tamara Tennant Interior Designs, Inc.
TFEsystems, Inc. / Marcos Cuervo, Inc.
Union Planters Bank
Walgreens
Wood, Dawson, Beverly, Tobin & Power, P.A.
Washington Mutual Bank
The Weitz Company, Inc.
City of West Palm Beach
Workflow Management, Inc.

April 13, 2000

Mr. Michael Tarlitz
Palm Beach County Economic Development Office
301 North Olive Avenue, 10th Floor
West Palm Beach, FL 33401

RE: Ad Valorem Tax Exemption application Lake Worth Generation

Dear Mike:

The Business Development Board of Palm Beach County, Inc. has reviewed the above-mentioned application for tax exemption. The application appears to be thorough in its documentation of purchase of tangible personal and real property.

Lake Worth Generation, L.L.C. will have a positive economic impact on Lake Worth and Palm Beach County. Assuming this meets your legal criteria, we recommend you proceed with the review of this application.

Sincerely,

Kelly Smallridge for Larry Pelton

Larry L. Pelton,
President

ATTACHMENT # 2

Economic Council
OF PALM BEACH COUNTY

Dedicated to promoting...
- prudent economic growth
- an improved quality of life, and
- protection of natural resources and the environment

April 17, 2000

The Honorable Maude Ford Lee
Chairman
Board of County Commissioners
Palm Beach County
P.O. Box 1989
West Palm Beach, Florida 33402

Dear Commissioner Lee:

The Economic Council has reviewed this year's tax exemption applications and makes the following recommendations:

A. Lake Worth Generation LLC: The Council recommends that this application for tax exemption be approved.

B. Sav-A-Sort: The Council does not support this application. This company was forced to move due to the Port's expansion and adequately compensated at that time for the relocation.

If you have any questions, please do not hesitate to call me at (561) 684-1551.

Sincerely,

Tom

Tom Watkins
Executive Director

bcc: Mr. Bob Flanagan, Economic Development Coordinator's Office

1555 Palm Beach Lakes Boulevard • Suite 400 • West Palm Beach • Florida 33401-2375
(561) 684-1551 • Fax: (561) 689-7546

ATTACHMENT # 3

CITY OF LAKE WORTH
7 NORTH DIXIE HIGHWAY
LAKE WORTH, FLORIDA 33460-3787

OFFICE OF THE
CITY MANAGER

(561) 586-1630
FAX (561) 586-1798

May 1, 2000

Palm Beach County Commission
301 North Olive Avenue
West Palm Beach, Florida 33401

Re: Lake Worth Generation, LLC Project
Application for Palm Beach County
Economic Development Tax Exemption Request

Ladies and Gentlemen:

I am the City Manager for the City of Lake Worth. On behalf of the City, I would like to express the City's wholehearted support for Lake Worth Generation's application to Palm Beach County for an economic development ad valorem tax exemption. The City of Lake Worth Commission unanimously voted in January of 1999 to approve the Energy Services Agreement developed between the City and Lake Worth Generation which provides for major operating enhancements, upgrades and repowering of the City's aging power plant.

Lake Worth Generation's project will result in a number of benefits to the City of Lake Worth and the County, including:

- A significant reduction in air emissions at the City's electric plant benefiting the City and County's air quality;

- A reduction in the cost of electricity charged to the City's customers, resulting in a more favorable climate for economic development, which will help to increase the overall ad valorem taxes collected by the County and City and create jobs within the City;

- Creation of new jobs by Lake Worth Generation, as well as allowing the existing workers at the City's plant to keep their jobs;

ATTACHMENT # 4

- Increased tax base within the City, and even with the exemption, an increase in taxes collected by the County, since the Project is located on City property and Lake Worth Generation's leasehold interest will become taxable; and

- Property provided by Lake Worth Generation in the proposed Lake Worth Park of Commerce will be annexed by the City for relocation of the City's Public Works facilities which will initiate improvement of infrastructure, services and access, and promote economic redevelopment in accordance with the joint Palm Beach County/City of Lake Worth revitalization plan.

This Project is good for the County, the City, and our mutual citizens. The tax exemption is necessary to make the Project feasible. We strongly encourage your full support.

Sincerely,

Wendy L. Newmyer,
City Manager

...OF PALM BEACH
...Clerk of the
...is a
...original filed in my office
May 16, 2000
...Palm Beach, FL on 6/9/00
DOROTHY H. WILKEN, Clerk
By: Diane Brown D.C.

ATTACHMENT # 4